

GOULD EXHIBIT

“A”

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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RONALD BRITT,

Plaintiff,

-against-

THERMALD REALTY I, LP., d/b/a
THERMALD REALTY ASSOCIATES I,
LP. And THERMALD REALTY CORP.,
THE WAVECREST MANAGEMENT TEAM,
LTD. d/b/a WAVECREST MANAGEMENT
GROUP, LLC and WAVECREST EQUITIES, LLC
and DOREEN ALDERMAN,

Defendants.

-----X

222 Bloomingdale
White Plains, New York
June 4, 2014
10:09 a.m.

EXAMINATION BEFORE TRIAL of RONALD BRITT, the
Plaintiff in the above-captioned matter, held at
the above time and place, before a Notary Public
of the State of New York.

Alyssa Bochnik,
Shorthand Reporter

A P P E A R A N C E S:

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GOULD & BERG, LLP
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Thermal Realty I, LP, d/b/a
Thermal Realty Associates I, LP
and Thermal Realty Corp., and
Doreen Alderman
222 Bloomingdale Road
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BY: JANE GOULD, ESQ.

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BY: JEFFREY ETTENGER, ESQ., of Counsel

ALSO PRESENT: DOREEN ALDERMAN
JOAN LENIHAN

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2 IT IS HEREBY STIPULATED AND AGREED, by
3 and between the attorneys for the respective
4 parties hereto, that the sealing and filing of
5 the within deposition be waived; that such
6 deposition may be signed and sworn to before any
7 officer authorized to administer an oath with the
8 same force and effect as if signed and sworn to
9 before a Justice of this Court.

10 IT IS FURTHER STIPULATED AND AGREED
11 that all objections, except as to form, are
12 reserved to the time of trial.

13 IT IS FURTHER STIPULATED AND AGREED
14 that the within examination and any corrections
15 thereto may be signed before any Notary Public
16 with the same force and effect as if signed and
17 sworn to before this Court.
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10:09:15

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MS. GOULD: Good morning,

10:09:16

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Mr. Britt, and Mr. Koerner, Mr. Ettenger.

10:09:19

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With me today is my client, Doreen

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Alderman, and also Joan Lenihan, who is an

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attorney admitted to practice in the State

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of New York. She's participating in a

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program at Pace law school, called

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New Directions, which is for attorneys

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who either have not been in practice for

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a period of time and want to come back to

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practice, or want to shift gears in their

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practice. And as part of it, as part of

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the program, the attorneys either extern

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at a law office or a government agency for

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several months. And Ms. Lenihan has been

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with us now for several months. And with

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your permission, Mr. Koerner --

10:09:51 19

MR. KOERNER: Good to meet you.

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MS. LENIHAN: Thank you. You too.

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MS. GOULD: -- she's going to sit

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in and see how it goes.

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R O N A L D B R I T T ,
having been duly sworn by Alyssa Bochnik,
a Notary Public within and for the State
of New York, was examined and testified
as follows:

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EXAMINATION BY MS. GOULD:

Q. State your name and address for the
record, please.

A. Ronald Britt, 195 Greenwich Street,
Apartment 8F, New York, New York 10017.

Q. Good morning, Mr. Britt. My name is
Jane Gould. I'm a member of the law firm of
Gould & Berg here in White Plains, New York.
Our firm represents Thermal Realty Associates I,
LP, and Doreen Alderman, who are among the
defendants in this case.

I'm going to be asking you some
questions today. If there's anything you don't
understand, please let me know; I will try to
rephrase the question to make it more
understandable.

Ronald Britt

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2 Do you understand what I've just
3 said?

4 A. Yes, ma'am.

5 Q. And you understand that you have to
6 answer verbally so that the stenographer can take
7 down what you're saying; is that correct?

8 A. I do.

9 Q. You've just given a Greenwich Street,
10 Manhattan address; is that correct?

11 A. Correct.

12 Q. And do you actually reside at that
13 address?

14 A. For the time being, yes.

15 Q. And you gave an apartment number; is
16 that correct?

17 A. Yes, I did.

18 Q. And is that apartment your apartment?

19 A. No, it isn't.

20 Q. Whose apartment is it?

21 A. Janet Ficarra (*ph*).

22 Q. And who is Janet Ficarra?

23 A. A friend of mine.

24 Q. And when you say that you reside at
25 that address for the time being, do you intend to

Ronald Britt

10:11:07 2 find another residence?

10:11:09 3 A. Yeah, I do.

10:11:11 4 Q. And have you been looking for another
10:11:14 5 residence?

10:11:14 6 A. I have.

10:11:15 7 Q. For what period of time?

10:11:17 8 A. Ever since I lost my apartment.

10:11:19 9 Q. And which apartment was that?

10:11:20 10 A. It's Apartment Number 12 at 91 East
10:11:27 11 3rd Street, New York, New York 10003, I believe.

10:11:30 12 Q. How long have you been living at the
10:11:33 13 address on Greenwich Street that you've just
10:11:36 14 given?

10:11:36 15 A. Since I left my apartment.

10:11:38 16 Q. And when did you leave your
10:11:39 17 apartment?

10:11:40 18 A. I don't recall. It's been a few
10:11:42 19 months.

10:11:42 20 Q. Did you leave your apartment at some
10:11:45 21 point during the year 2014?

10:11:47 22 A. Yes.

10:11:47 23 Q. Did you leave your apartment
10:11:51 24 voluntarily?

10:11:52 25 A. No, I did not.

Ronald Britt

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10:11:53 2 Q. What were the circumstances in which
10:11:55 3 you left your apartment?

10:11:56 4 A. I -- I actually did leave my
10:11:58 5 apartment voluntarily as a result of an agreement
10:12:02 6 my attorney made on my behalf.

10:12:05 7 Q. And that agreement was to resolve an
10:12:10 8 eviction proceeding that was commenced against
10:12:13 9 you; is that correct?

10:12:14 10 A. That's correct.

10:12:15 11 Q. Are you paying rent at the apartment
10:12:18 12 in which you currently reside?

10:12:20 13 A. No.

10:12:20 14 Q. Sir, can you describe your
10:12:24 15 educational background, beginning with graduation
10:12:27 16 from high school.

10:12:28 17 A. Well, I took a few years off, and I
10:12:31 18 went to U.S.F., and I got a degree in fine arts.

10:12:35 19 Q. And what is U.S.F.?

10:12:37 20 A. University of South Florida.

10:12:39 21 Q. And you say you got a degree in fine
10:12:41 22 arts.

10:12:41 23 When did you get that degree?

10:12:43 24 A. I think it was '85.

10:12:44 25 Q. What is your date of birth?

Ronald Britt

10:12:46 2 A. 2/4/58.

10:12:49 3 Q. And when you say you got a degree in
10:12:52 4 fine arts, was there a particular form of art
10:12:55 5 that you concentrated in or majored in?

10:12:59 6 A. Fine art.

10:12:59 7 Q. Is that painting, for example?

10:13:03 8 A. I did a lot of painting, a lot of
10:13:06 9 figure drawing, a lot of photography and
10:13:11 10 sculpture.

10:13:11 11 Q. Do you hold any professional
10:13:13 12 licenses?

10:13:13 13 A. No.

10:13:13 14 Q. Do you hold any licenses of any sort?

10:13:16 15 A. A driver's license.

10:13:17 16 Q. Other than a driver's license, do you
10:13:19 17 hold other licenses?

10:13:22 18 A. No.

10:13:22 19 Q. Do you hold a plumbing license?

10:13:25 20 A. No, I do not.

10:13:25 21 Q. Do you hold an electrical license?

10:13:28 22 A. No, I do not.

10:13:29 23 Q. Do you have any understanding as to
10:13:31 24 whether the City of New York issues any sort of
10:13:35 25 home-improvement licenses?

1 *Ronald Britt*

10:13:38 2 A. Well, I have a certificate for
10:13:40 3 heating and plumbing.

10:13:41 4 Q. And where do you have the certificate
5 from?

10:13:44 6 A. The City of New York Department of
10:13:45 7 Buildings.

10:13:46 8 Q. And what did you do to get that
10:13:48 9 certificate?

10:13:48 10 A. And I also have a --

11 Q. Go ahead.

10:13:50 12 A. And I also have a license for lead
10:13:53 13 renovators, which is required by all supers.

10:13:55 14 Q. A license for lead renovators is
10:14:00 15 required for all supers; is that what you said?

10:14:01 16 A. It's really required for anybody,
10:14:04 17 from an interior decorator, on up.

10:14:07 18 Q. And what did you do to obtain the
10:14:09 19 certificate for heating and plumbing?

10:14:11 20 A. I attended classes.

10:14:13 21 Q. And when did you attend those
10:14:15 22 classes?

10:14:16 23 A. I don't recall, but I have the
10:14:17 24 certificate.

10:14:17 25 Q. When did you get the certificate?

1 *Ronald Britt*

10:14:18 2 A. A couple years ago.

10:14:19 3 Q. And is there any requirement that you
10:14:22 4 continue to attend classes to keep up that
10:14:25 5 certificate?

10:14:26 6 A. There may be. I'm not sure.

10:14:28 7 Q. And with regard to -- what did you
10:14:30 8 say? The lead --

10:14:30 9 A. Lead renovators.

10:14:33 10 Q. Lead renovators. What did you do to
10:14:34 11 get that certificate?

10:14:34 12 A. I attended several classes.

10:14:37 13 Q. And those classes were given by --

10:14:40 14 A. And I took a test.

10:14:40 15 Q. By what entity were those classes
10:14:43 16 given?

10:14:44 17 A. It was a fellow who is licensed to
10:14:47 18 give those classes. And I took it with a bunch
10:14:50 19 of plumbers.

10:14:51 20 Q. And do you have a certificate from
10:14:52 21 that course, as well?

10:14:54 22 A. I don't have it, but I can certainly
10:14:56 23 obtain it, a copy.

10:14:58 24 Q. When you say you don't have it, what
10:15:00 25 do you mean?

Ronald Britt

10:15:00 2 A. I mean, I don't know where it is.

10:15:03 3 Q. And when did you get that

10:15:05 4 certificate?

10:15:05 5 A. A few years ago.

10:15:06 6 Q. Can you describe your employment

10:15:10 7 history, beginning with graduation from high

10:15:11 8 school?

10:15:11 9 A. Well, that would be, I went into
10:15:18 10 graphics animation and special effects. I worked
10:15:21 11 in television for many years. I traveled quite a
10:15:26 12 bit as a freelancer.

10:15:28 13 Q. What you say "as a freelancer," what
10:15:31 14 kind of work did you do?

10:15:32 15 A. Graphics animation and special
10:15:34 16 effects.

10:15:34 17 Q. For how long a period of time did you
10:15:37 18 do graphics animation and special effects?

10:15:40 19 A. Maybe 15, 16 years.

10:15:42 20 Q. And then, what?

10:15:43 21 A. And then, I became a handy guy.

10:15:46 22 Q. And when you say "handy guy," what do
10:15:48 23 you mean?

10:15:48 24 A. I mean, sort of a generalist - fix
10:15:53 25 this and that. It started with chairs.

1 *Ronald Britt*

10:15:54 2 Q. When did you become a handy guy?

10:15:57 3 A. Well, I've always been kind of handy.

10:16:00 4 Everybody in my hometown is handy.

10:16:03 5 Q. And what hometown is that?

10:16:05 6 A. Dublin, North Carolina.

10:16:07 7 Q. And did you at some point become
10:16:10 8 employed as a handy guy, as you say?

10:16:10 9 A. Yeah; I did little, pick-up jobs
10:16:13 10 after leaving my last animation job.

10:16:16 11 Q. And approximately when was that?

10:16:18 12 A. I don't know. Maybe, 13, 14,
10:16:25 13 15 years ago.

10:16:25 14 Q. And for how long a period of time
10:16:27 15 have you been a handy guy?

10:16:29 16 A. As I've said, I've always been handy.

10:16:32 17 Q. Well, I'm referring to: For how long
10:16:35 18 a period of time have you been paid to be a handy
10:16:37 19 guy?

10:16:37 20 A. I think I got my first handy job at
10:16:40 21 12.

10:16:43 22 Q. Are you currently employed?

10:16:45 23 A. Not really.

10:16:46 24 Q. Do you currently have any source of
10:16:49 25 income?

Ronald Britt

10:16:50 2 A. I'm doing little, pick-up handy jobs,
10:16:54 3 and I help out at the bar from time to time.

10:16:57 4 Q. Now, when you say "little, pick-up
10:16:59 5 handy jobs," what are you referring to?

10:17:01 6 A. Whatever comes down the pike. You
10:17:05 7 need me to help move a couch, I'll help you move
10:17:09 8 a couch. You need me to put up a shelf, hang a
10:17:13 9 picture. Whatever.

10:17:13 10 Q. And when you refer to "the bar," what
10:17:15 11 are you referring to?

10:17:16 12 A. The Edge bar.

10:17:17 13 Q. And where is that located?

10:17:18 14 A. 95 East 3rd Street.

10:17:21 15 Q. And what kinds of work have you done
10:17:24 16 for The Edge bar?

10:17:25 17 A. I kind of help keep an eye on things.

10:17:28 18 Q. What does that mean?

10:17:29 19 A. Whatever they need.

10:17:31 20 well, help keep an eye on things.

10:17:33 21 It's a bar.

10:17:34 22 Q. Well, does that mean you're a
10:17:37 23 bouncer?

10:17:37 24 A. No. They don't have bouncers there.

10:17:40 25 Q. Do you do any work with your hands

Ronald Britt

there?

A. Sometimes, yes.

Q. What type of work?

A. Pick up glasses, wipe off tables.

Q. Are you paid for that work?

A. Yes.

Q. On what basis are you paid?

A. 100 bucks a night.

Q. Since April 30th, 2013, how much have you earned from Edge bar?

MR. KOERNER: Objection.

You can answer.

MS. GOULD: What's the basis of the objection?

MR. KOERNER: First of all, there's no relevance to that in this case.

MS. GOULD: Relevance is not an objection.

MR. KOERNER: I'm objecting. I'm saying he can answer.

Q. Go ahead.

A. I don't know.

Q. Do you have any records of what you've earned from Edge bar?

Ronald Britt

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10:18:18 2 A. I don't know. I don't know if they
10:18:20 3 keep a record or not. But if there are records,
10:18:23 4 I don't have copies.

10:18:25 5 Q. Do you keep records of what you've
10:18:28 6 earned at Edge bar?

10:18:29 7 A. No, I haven't.

10:18:30 8 Q. Have you been paid in cash by Edge
10:18:33 9 bar?

10:18:33 10 A. Yes.

10:18:34 11 Q. Have you given receipts to Edge bar
10:18:37 12 for those payments?

10:18:38 13 A. No.

10:18:38 14 Q. So, it's your testimony, as you sit
10:18:40 15 here today, that you don't have any specific
10:18:44 16 knowledge as to how much you've earned from Edge
10:18:48 17 bar since April 30th of 2013; is that correct?

10:18:50 18 A. A few hundred bucks. It's not much.

10:18:53 19 Q. Is it under \$1,000?

10:18:55 20 A. I would imagine so, yes.

10:18:57 21 Q. So, you've worked less than ten
10:19:01 22 nights at Edge bar; is that correct?

10:19:02 23 A. I believe so.

10:19:03 24 Q. And when you talked about the small,
10:19:06 25 pick-up jobs that you're referring to, how much

Ronald Britt

1
2 have you earned from those jobs since April 30th
3 of 2013?

4 A. I wouldn't know.

5 Q. Do you have any records that would
6 reflect how much you've earned from those jobs
7 since April 30th, 2013?

8 A. No, I don't.

9 Q. And when you'd perform those pick-up
10 jobs, were you paid in cash?

11 A. More often than not, it's some form
12 of barter.

13 Q. And when you say "more often than
14 not, it's some form of barter," can you describe
15 a form of barter?

16 A. Like, you give me a ride someplace I
17 need to go, and I'll help you clean off your
18 patio.

19 Q. Did you file a tax return for the
20 year 2013?

21 A. No, I have not.

22 Q. Why is that?

23 A. I just don't believe I owe any taxes.

24 Q. Now, do you know Doreen Alderman?

25 A. I do.

Ronald Britt

10:20:20 2 Q. How long have you known Ms. Alderman?

10:20:23 3 A. Since about a year before I became
10:20:27 4 employed by her. I would say, that would be
10:20:31 5 maybe '05.

10:20:34 6 Q. So, is it your testimony that you met
10:20:36 7 her first in 2005?

10:20:38 8 A. I don't know for sure, but it was
10:20:40 9 about nine months before I was hired.

10:20:43 10 Q. well, when were you hired?

10:20:45 11 A. I think it was in '07. I'm not sure.

10:20:47 12 Q. So --

10:20:50 13 A. I think it was January 1st, '07, but
10:20:52 14 I'm not exactly sure.

10:20:53 15 Q. So, if you were hired in 2007 and you
10:20:57 16 say that you believe you met Ms. Alderman about
10:21:00 17 nine months before you were hired, when would
10:21:03 18 that be?

10:21:03 19 A. I can't be sure.

10:21:04 20 Q. Was it in 2005 or 2006?

10:21:06 21 A. I'm not really sure.

10:21:08 22 Q. How did you meet her?

10:21:10 23 A. I leased the basement of 91 East 3rd
10:21:14 24 Street as my shop space.

10:21:17 25 MR. KOERNER: Try to answer the

Ronald Britt

question. Just, how did you meet her?

THE WITNESS: That's how I met her.

MR. KOERNER: Okay.

Q. You make reference to a lease of a basement for shop space; is that correct?

A. That's correct.

Q. And this is a basement located at what address?

A. 91 East 3rd Street.

Q. And you say you leased the basement at that address for shop space; is that correct?

A. Correct.

Q. And when you say "the basement," are you referring to the entire basement?

A. The basement there is divided into three large sections.

Q. So, when you refer to "the basement," what part of -- or, all of those three sections are you saying you leased?

A. I can provide you a diagram that's scale.

Q. Well, let's -- let me step back.

You indicated that the basement is divided into three large sections; is that

Ronald Britt

correct?

A. The east-most section.

Q. So, are you saying that you leased the east-most section of that space?

A. Correct; all but one room.

Q. And was that -- was that room included, quote, "in the east-most section"?

A. It is. There's a small common area when you come down the hatch. And then, there's what we refer to as the super room. It was the room that I used when I was super. And the rest is what I leased.

Q. And approximately how many square feet was that portion of the space that you leased?

A. I don't know.

Q. And you said you leased it as your shop space.

What do you mean by that?

A. I mean, I had all my tools there, and I worked out of there.

Q. And this was before you became employed at 91 East 3rd Street; is that correct?

A. Correct, as a super. Although I did

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Ronald Britt

a few jobs for Doreen before I became super.

Q. Did you have an understanding that that lease was to be for storage space?

A. The understanding was it would be my shop space. But they said -- Jay said, her managing agent, that he had to put storage on the lease because of the Certificate of Occupancy, that it would be a problem with the D.O.B.

Q. "D.O.B." meaning, Department of Buildings; is that correct?

A. That's what he said.

Q. When did you first rent this basement space?

A. I can't be sure. I'd have to refer to the lease.

MS. GOULD: Off the record.

(Off-the-record discussion)

MS. GOULD: Can you mark this, please. It's going to be Exhibit 1.

(Whereupon, six pages, including 7/7/05, lease agreement; and 12/20/07, lease extension was marked as Exhibit 1, for id.)

Q. Mr. Britt, please take a look at a

Ronald Britt

document that we've marked as Exhibit 1.

(Handing)

(Witness peruses exhibit)

Do you recognize the exhibit?

A. Yes, I do.

Q. And can you tell me what it is?

A. It's my lease, and an extension of my lease.

Q. And when you say this is my lease, you're looking at a document that is the exhibit minus the first page; is that correct?

A. I don't know that.

Q. Well, the first page is the extension; isn't that correct?

A. The first page is the extension; correct.

Q. And so, the remainder of the exhibit is the lease that you're referring to for the basement of 91 East 3rd Street; is that correct?

A. Yes; but it doesn't have the drawing that accompanied it.

Q. But other than the fact that it doesn't have the drawing, is this a true and accurate copy of the lease that you signed for

1 *Ronald Britt*

10:26:41 2 the basement at 91 East 3rd Street? And this
10:26:42 3 seems to be dated July 7th of 2005.

10:26:45 4 A. I would have to read through it.

10:26:48 5 Q. Would you take a look, and then see
10:26:51 6 if you can answer my question.

7 *(Witness peruses exhibit)*

8 MR. KOERNER: Off the record.

10:27:44 9 *(Off-the-record discussion)*

10:27:44 10 MS. GOULD: Okay. We're going to
10:27:46 11 take two seconds while counsel goes
10:27:49 12 downstairs.

13 *(Recess held from 10:27 to 10:35 a.m.)*

14 MS. GOULD: Back on the record.

15 CONTINUED EXAMINATION BY MS. GOULD:

16 A. I can't.

17 Q. To the best of your knowledge.

18 MR. KOERNER: We'll reserve our
19 right to look at it.

10:35:41 20 A. Would I be able to check it against
10:35:43 21 my lease and get back to you on this one?

22 Q. How about looking at the last page of
10:35:46 23 the lease --

10:35:46 24 MR. ETTINGER: Can we go off the
25 record for a second.

1 **Ronald Britt**

2 *(Off-the-record discussion)*

10:38:08 3 MS. GOULD: Can you read back the
10:38:10 4 question, please.

5 *(Whereupon, the following portion*
6 *of the record was read back by the*
7 *reporter:*

10:26:34 8 Q. But other than the fact that it
10:26:36 9 doesn't have the drawing, is this a true
10:26:38 10 and accurate copy of the lease that you
11 *singed for the basement at 91 East 3rd*
10:26:41 12 *Street? And this seems to be dated*
10:26:44 13 *July 7th of 2005.)*

10:26:45 14 A. I would have to read through it.

10:38:15 15 *(Witness peruses exhibit)*

10:38:21 16 Yeah. It says right here, "as per
10:38:26 17 attached drawing."

10:38:29 18 Q. Mr. Britt --

10:38:31 19 MR. KOERNER: Yes or no question,
10:38:33 20 Ron. Or if you don't know, you don't
10:38:36 21 know.

10:38:38 22 A. Let me just see.

10:38:40 23 *(Witness peruses exhibit)*

10:39:33 24 MR. KOERNER: I'll note for the
10:39:36 25 record that the font on this document is

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Ronald Britt

exceptionally small and difficult to read.

(Witness peruses exhibit)

A. Well, honestly, there's some things in here I don't recall. I'll have to check against my own copy. But, it appears to be the same.

Q. It appears to be the same as the lease that you -- a true and accurate copy of the lease you signed for basement space at 91 East 3rd Street on or about July 7th, 2005; is that correct?

A. Yes.

Q. And just looking at the last page of the exhibit, calling your attention to what appears to be the signature of a "Ron Britt," is that your signature, sir?

A. That is.

Q. And do you know whose signature appears above your signature?

A. Jay Yablonsky.

Q. And who is Jay Yablonsky?

A. The managing agent.

Q. For what?

A. For Thermald Realty.

1 *Ronald Britt*

10:41:37 2 Q. Now, you indicated that you first met
10:41:40 3 Doreen Alderman at or around the time that you
10:41:43 4 signed this lease, which is part of Exhibit 1; is
10:41:46 5 that correct?

10:41:46 6 MR. KOERNER: Objection. Is
10:41:49 7 that --

10:41:49 8 THE WITNESS: Yeah, she was there
10:41:50 9 in the space.

10:41:51 10 Q. And it appears that that was on or
10:41:55 11 about July 7th, 2005, or sometime prior to that;
10:41:59 12 is that correct?

10:42:00 13 A. I met Jay three days before signing
10:42:05 14 this.

10:42:05 15 Q. I'm talking about when you met Doreen
10:42:08 16 Alderman.

10:42:08 17 A. I met her at the signing of this.

10:42:10 18 Q. And that was on July 7th, 2005?

10:42:13 19 A. It appears so, yes.

10:42:15 20 Q. Now, looking at the first page of the
10:42:18 21 exhibit, which you indicated earlier was the
10:42:19 22 extension of your lease; is that correct?

10:42:20 23 A. Yes.

10:42:21 24 Q. And this extended the lease until
10:42:25 25 July 31st of 2018; is that correct?

Ronald Britt

10:42:29 2 A. Correct.

10:42:30 3 Q. And when was this extension signed?

10:42:32 4 A. Well, it's dated 12/20/07.

10:42:37 5 Q. And was Doreen Alderman present when
10:42:41 6 you signed that extension?

10:42:42 7 A. I don't recall.

10:42:43 8 Q. Now, during the period after
10:42:46 9 July 7th, 2005, and until August 1, 2000- --
10:42:55 10 until July 31st, 2000- -- I'm sorry.

10:43:00 11 Until you signed this extension on
10:43:03 12 12/20/07, how did you use that basement space at
10:43:09 13 91 East 3rd Street?

10:43:09 14 A. As my shop space.

10:43:10 15 Q. Did you use it for anything else?

10:43:13 16 A. It's always been a shop space.

10:43:14 17 Q. Did there come a point in time when
10:43:19 18 you became employed at 91 East 3rd Street?

10:43:23 19 A. Yes, ma'am.

10:43:24 20 Q. And when did that occur?

10:43:26 21 A. I believe it was January 1st, '07,
10:43:30 22 but I'm not sure.

10:43:31 23 Q. And how did it come about that you
10:43:33 24 became employed there?

10:43:34 25 A. The previous super, Brendan Burke,

Ronald Britt

1
2 had had his pay reduced, because he said Doreen
3 wasn't happy with the way he cleaned, and she
4 hired somebody else to do cleaning. He was not
5 able to make ends meet on what remained. And I
6 said that if they offered me the super job, I
7 would adopt his dog, because he couldn't take
8 his dog with him. So, in that moment, I became
9 the super. When they offered me the job, I took
10 over Brendan's shop, Brendan's apartment,
11 Brendan's job, and his dog.

12 Q. Now, when you say in that moment they
13 offered you the job, who is the "they" that
14 you're referring to?

15 A. Doreen and Jay.

16 Q. And that's Doreen Alderman and
17 Jay Yablonsky?

18 A. Yes.

19 Q. Did you approach them about taking
20 over this job?

21 A. No. They had offered me the job when
22 I first met them.

23 Q. And when was that?

24 A. When I first signed the lease.

25 Q. But you declined the job at that time --

Ronald Britt

A. I did.

10:44:38 Q. -- is that what you're saying?

10:44:40 A. Because I didn't want to do any
10:44:42 cleaning.

10:44:43 Q. And when you were offered the job and
10:44:55 you were going to take over for Brendan Burke,
10:45:00 were you offered any sort of written agreement?

10:45:02 A. I think there was a contract, yes.

10:45:04 Q. And did you sign that contract, as
10:45:07 you call it?

10:45:07 A. I think I did.

10:45:08 Q. And do you recall how many pages the
10:45:10 contract was?

10:45:11 A. I don't.

10:45:12 Q. Were you given a draft of the
10:45:17 contract before you signed it?

10:45:19 A. I think they just presented it;
10:45:24 signed it, and start working.

10:45:27 Q. Was there any negotiation of the
10:45:29 contract prior to the time that you started
10:45:31 working?

10:45:32 A. No.

10:45:32 Q. Well, you said you didn't want to
10:45:34 clean; is that correct?

1 *Ronald Britt*

10:45:36 2 A. That's right.

10:45:37 3 Q. And do you recall whether the initial
10:45:40 4 contract, as you call it, as presented to you,
10:45:44 5 included cleaning?

10:45:44 6 A. I don't, but I know they hired a
10:45:47 7 porter to take care of the cleaning.

10:45:49 8 Q. Do you know the name of the entity
10:45:53 9 that actually hired you?

10:45:55 10 A. I think it's Thermal Realty
10:46:04 11 Associates.

10:46:05 12 Q. And do you recall what the terms of
10:46:18 13 the contract were?

10:46:20 14 A. Not offhand, no.

10:46:22 15 Q. Do you recall whether the duties that
10:46:25 16 you were supposed to be -- supposed to perform,
10:46:27 17 were outlined in that contract?

10:46:29 18 A. I imagine they were, yes.

10:46:32 19 Q. And do you recall what they were?

10:46:34 20 A. Not offhand, no.

21 MS. GOULD: Mark this, please.

22 *(Whereupon, 28 pages,*

23 *Complaint/Jury Trial Demanded was marked*

10:47:54 24 *as Exhibit 2, for id.)*

10:47:54 25 Q. I'm going to ask you to take a look

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Ronald Britt

at the official exhibit, which has been marked
Exhibit 2. *(Handing)*

(Witness peruses exhibit)

THE WITNESS: This is what we
submitted?

Q. Take a look, and then I'm going to
ask you some questions.

A. May I have a minute?

Q. Surely.

(Witness peruses exhibit)

MR. ETTINGER: Off the record.

(Off-the-record discussion)

MS. GOULD: Back on the record.

(Witness peruses exhibit)

MR. KOERNER: There's no question
pending; right?

MS. GOULD: Correct.

MR. KOERNER: I think if you're
going to have specific questions, you can --

Q. My first question is going to be -
and maybe this will assist you in moving this
along - whether this document is the complaint
with exhibits that was filed on your behalf in
this action.

Ronald Britt

10:56:54 2 A. I believe it is.

10:56:55 3 Q. Did you see this complaint before it
10:56:58 4 was filed?

10:56:58 5 A. I did.

10:56:58 6 Q. And did you review it for accuracy?

10:57:03 7 A. I did.

10:57:03 8 Q. And did you see the exhibits that
10:57:05 9 were attached to the complaint before the
10:57:08 10 complaint was filed?

10:57:10 11 A. That's Exhibit A?

10:57:11 12 Q. Well, there are several exhibits.

10:57:14 13 A. Well, I'm only up to that page.

10:57:17 14 Q. Well, there are a number of exhibits.

10:57:20 15 I think they go all the way up through E. And
10:57:23 16 I'm going to ask you whether you recall reviewing
10:57:26 17 those exhibits attached to the complaint filed on
10:57:30 18 your behalf, before the complaint was filed?

10:57:32 19 A. I don't know for sure that we had a
10:57:34 20 copy of the employment contract. But I did sign
10:57:40 21 it back then; so, I have seen it before.

10:57:43 22 Q. Well, what is it that you say you've
10:57:45 23 seen before?

10:57:46 24 A. The employment contract. I don't
10:57:49 25 know that I reviewed it before, but we may have.

1 *Ronald Britt*

10:57:52 2 Q. Let me just ask the question again to
10:57:55 3 have a clear record: Do you recognize Exhibit 2
10:57:57 4 as a true and accurate copy of the complaint that
10:58:01 5 was filed on your behalf in this action together
10:58:04 6 with the exhibits that were filed with the
10:58:08 7 complaint?

10:58:11 8 MR. KOERNER: Objection as asked
9 and answered.

10 A. I'm sorry. Could you --

10:58:14 11 MR. ETTINGER: You've got to read
10:58:14 12 all the exhibits, sir. You said you
13 haven't read them all. So, why don't you
14 review them all so you can answer the
15 question.

10:58:36 16 *(Witness peruses exhibit)*

10:58:36 17 MR. KOERNER: Off the record.

18 *(Off-the-record discussion)*

19 MR. KOERNER: Go ahead. Back on
10:58:40 20 the record.

10:58:40 21 A. Yes, I believe I've seen all of this.

10:58:48 22 Q. So, the question, again, is: Is
10:58:50 23 Exhibit 2, the document that you've been looking
10:58:52 24 at, a true and accurate copy of the complaint
10:58:54 25 that was filed on your behalf in this action,

Ronald Britt

1
2 together with the exhibits that were filed with
3 the complaint?

4 A. It appears so.

5 Q. And you've indicated that you
6 reviewed the complaint for accuracy; is that
7 correct?

8 A. Yes, ma'am.

9 Q. Now, looking at Exhibit A of the
10 complaint -- withdrawn.

11 Looking at Page 3 and going over to
12 Page 4 of the complaint, Paragraph 12, last
13 sentence in Paragraph 12, it states, "Plaintiff's
14 employment agreement dated January 4th, 2007,
15 setting forth the terms of plaintiff's employment
16 by Thermalld attached hereto as Exhibit A."

17 Do you see that?

18 A. Page 3?

19 Q. Going on to Page 4, Paragraph 12.

20 A. So, what are we looking for?

21 Q. Looking at the bottom of the page
22 starting with Paragraph 12. And that paragraph
23 continues to Page 4.

24 A. Okay.

25 Q. Looking at the end of that paragraph,

Ronald Britt

which is on the top of Page 4 it says:

"Plaintiff's employment agreement dated January 4th, 2007, setting forth the terms of plaintiff's employment by Thermal, attached hereto as Exhibit A.

Do you see that?

A. I do.

Q. Now, would you take a look at the Exhibit A that's attached to this complaint.

(Witness peruses exhibit)

A. Yes.

Q. This is a two-page exhibit; is that correct?

A. Yes, ma'am.

Q. And the first page appears to be dated January 4th, 2007; is that correct?

A. Yes, ma'am.

Q. And it appears to be on the stationery of the Wavecrest Management Team Limited; is that right?

A. Yes, ma'am.

Q. And on the second page, is it accurate that your signature appears?

A. Yes, ma'am.

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Ronald Britt

Q. Can you identify Exhibit A? Can you tell me what it is?

A. It appears to be the employment contract that I signed with Jay Yablonsky.

Q. Is this the entirety of the employment contract that you signed with Jay Yablonsky?

A. It appears to be.

Q. Well, would you take a look at the first page, and then look at the second page, and tell me whether you think that there aren't pages missing in this agreement?

A. I can't be sure.

Q. Take a look at it.

(Witness peruses exhibit)

A. Yes.

Q. There are pages missing? Do you know how many pages missing?

A. No; I say I -- I've had a look at it, but I can't be sure if there are pages missing.

Q. Well, as you look at the document, looking at the bottom of the first page of the document, you see a paragraph numbered 6. And going to the second page of the document --

Ronald Britt

11:01:43 2 A. Nothing else is numbered.

11:01:46 3 Q. Well, more than that, it starts in

11:01:48 4 the middle of a sentence; doesn't it?

11:01:50 5 A. Well, I don't know.

6 *(Witness peruses exhibit)*

11:01:58 7 Yes, it does.

11:01:59 8 Q. So, I ask you again: Is this the
11:02:02 9 entirety of the agreement that you signed, as you
11:02:04 10 say, with Jay Yablonsky on about January 4th,
11:02:08 11 2007?

11:02:08 12 MR. KOERNER: Objection. On the
11:02:10 13 record, we've had communications between
11:02:10 14 counsel, where I said there may be missing
11:02:13 15 pages, but these are all the pages that we
11:02:16 16 have.

11:02:16 17 MS. GOULD: That's what you said,
11:02:19 18 but you're not the witness.

11:02:19 19 MR. KOERNER: Okay. So...

20 MS. GOULD: And you are now
11:02:19 21 engaging in a speaking objection, which
11:02:19 22 you know you're not supposed to do.

11:02:21 23 Q. Is this the entirety of the
11:02:23 24 agreement?

11:02:23 25 A. I can't be sure, ma'am.

1 *Ronald Britt*

11:02:25 2 Q. Do you recall being given a draft of
11:02:26 3 this agreement prior to the time you signed it?

11:02:32 4 A. No.

11:02:32 5 Q. Do you recall whether, in the
11:02:47 6 agreement that you actually signed, your duties
11:02:50 7 were listed?

11:02:53 8 A. To be honest, ma'am, no.

11:02:55 9 Q. Do you recall whether, in the
11:02:56 10 agreement that you actually signed, your
11:03:00 11 compensation was set forth?

11:03:01 12 A. I imagine it was, yes.

11:03:04 13 Q. Well, do you recall what that
11:03:06 14 compensation was in the agreement that you
11:03:07 15 actually signed?

11:03:08 16 A. No, I don't.

11:03:10 17 Q. And you note here -- withdrawn.
11:03:13 18 Looking at Exhibit A to the
11:03:17 19 complaint, which is Exhibit 2, is it accurate
11:03:22 20 that there's no compensation set forth in these
11:03:28 21 two pages?

11:03:29 22 A. What was the question again, please?

11:03:31 23 Q. Looking at Exhibit A to your
11:03:34 24 complaint --

11:03:34 25 A. All right. Yes.

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Ronald Britt

Q. -- which is a two-page exhibit, which you've said you don't know whether or not it constitutes the whole agreement that you signed; is that correct?

A. I can't be sure.

Q. As you look at this exhibit, is there any compensation set forth in the exhibit?

(Witness peruses exhibit)

A. No, I don't see any.

Q. When you signed the employment agreement that you're referring to on or about January 4th, 2007, was the compensation for your roles and responsibilities set forth in the agreement?

A. I would imagine it was, ma'am, but I can't be sure.

Q. You can't be sure?

A. It's many years ago, and I don't have a copy of it.

Q. Well, what was your understanding -- as you sit here today, what was your understanding of how you were going to be compensated for your roles and responsibilities at 91 East 3rd Street?

1 *Ronald Britt*

11:04:32 2 A. I think it was something like \$3.67
11:04:39 3 per unit that I was super of record for, but I
11:04:43 4 can't be sure.

11:04:43 5 Q. Do you believe that that was set
11:04:46 6 forth in the agreement?

11:04:46 7 A. I don't know. But I think that the
11:04:48 8 pay reflects that, yes.

11:04:50 9 Q. The pay reflects, what?

11:04:52 10 A. That that's about correct.

11:04:55 11 Q. And how many units were you going to
11:04:57 12 be responsible for?

11:04:58 13 A. Something like 76 apartments. 1, 2,
11:05:09 14 3 -- 4 storefronts. And 4 basements.

11:05:14 15 Q. So, it was your understanding that
11:05:16 16 the compensation that was set forth in the
11:05:17 17 agreement that you actually signed, was on a
11:05:22 18 per-unit basis?

11:05:23 19 A. I think so.

11:05:23 20 Q. And with respect to the agreement
11:05:28 21 that you believe you signed, what were the duties
11:05:30 22 that you were supposed to perform?

11:05:32 23 A. Frankly, ma'am, it was quite casual.
11:05:36 24 It was like, bang, you're super. There was no
11:05:40 25 training, other than a conversation --

1 *Ronald Britt*

11:05:40 2 Q. I'm asking: What were the duties
11:05:42 3 that were outlined in the agreement that you were
11:05:44 4 supposed to perform?

11:05:45 5 MR. KOERNER: If you know. If you
11:05:46 6 recall.

11:05:46 7 A. That I would be on call 24/7; and
11:05:49 8 that whatever happened, take care of it.

11:05:52 9 Q. Well, looking at the Exhibit A that
11:05:54 10 you attached to your complaint, there are at
11:05:57 11 least six enumerated duties; is that correct?

11:06:00 12 A. At least.

11:06:02 13 Q. Do you recall - Looking at the first
11:06:05 14 page of that exhibit, Paragraphs 1 through 6 -
11:06:08 15 that these were among the responsibilities set
11:06:10 16 forth in the agreement that you actually signed?

11:06:12 17 A. Yes, I do.

11:06:13 18 Q. And do you recall that there were
11:06:14 19 other duties actually set forth in the agreement
11:06:16 20 that you signed?

11:06:17 21 A. Only what Jay told me.

11:06:19 22 Q. And what did he tell you?

11:06:21 23 A. "Whatever happens, take care of it."

11:06:23 24 Q. So, as you sit here today, you don't
11:06:27 25 recall whether there were more duties set forth

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Ronald Britt

in the agreement that you actually signed than these one through six listed on Exhibit A of your complaint; is that right?

A. Well, I'm sure that he said, "You're super. Take care of the buildings. Take care of the tenants. And whatever happens, deal with it right away."

Q. I'm asking you a different question. I'm asking you whether you recall that with respect to the agreement that you actually signed, that there were duties in addition to the paragraphs numbered one through six on the first page of this Exhibit A to your complaint?

A. As I said, ma'am, I can't be sure. It was some time ago.

Q. And you don't recall whether you ever received a draft of the agreement prior to the time that you signed it; is that correct?

MR. KOERNER: Objection.

You can answer.

A. It was a long time ago.

MS. GOULD: Mark this, please.

(Whereupon, five-page document dated 12/28/06, was marked as Exhibit 3,

1 *Ronald Britt*

11:07:59 2 *for id.)*

11:07:59 3 Q. Please take a look at the document
11:08:03 4 we've marked as Exhibit 3. *(Handing)*

11:08:06 5 *(Witness peruses exhibit)*

11:08:45 6 MR. KOERNER: This is a draft.

11:08:47 7 MS. GOULD: Well, sir, you are now
11:08:50 8 coaching your witness.

9 MR. KOERNER: I'm not coaching my
10 witness.

11 MS. GOULD: I'm suggesting you are.

11:08:51 12 MR. KOERNER: I'm repeating what
11:08:52 13 you just said.

11:08:54 14 MS. GOULD: I didn't say that.

11:08:55 15 I'm asking him to take a look at a
11:08:58 16 document. All right?

17 Please go on and have this on the
18 record.

11:08:58 19 And you are coaching your witness,
11:09:01 20 on the record.

11:09:09 21 MR. KOERNER: Absolutely not.

11:09:30 22 *(Witness peruses exhibit)*

11:09:30 23 MS. GOULD: I'm noting for the
11:09:31 24 record that Mr. Britt's counsel is
11:09:33 25 pointing things out to him on the exhibit.

1 *Ronald Britt*

11:09:35 2 There's been no question about the exhibit
3 yet. What he's doing is completely

11:09:39 4 inappropriate.

11:09:39 5 MR. KOERNER: Absolutely not. You

11:09:41 6 showed him a document to review. I'm

11:09:43 7 reviewing the document with him.

11:09:45 8 MS. GOULD: No. He's supposed to

11:09:47 9 be reviewing it. You're not supposed to

11:09:47 10 be reviewing it with him.

11:09:47 11 MR. KOERNER: I'm making sure he's

11:09:50 12 paying attention to relevant sections of

13 the document and answering your questions.

14 MS. GOULD: Well, you know, sir --

11:09:50 15 MR. KOERNER: There's no coaching.

11:09:52 16 There's nothing improper, you know,

11:09:54 17 except for your statements on record I'm

11:09:57 18 doing something improper.

11:10:00 19 MS. GOULD: Okay. All right.

11:10:02 20 *(Witness peruses exhibit)*

11:10:35 21 A. Okay.

11:10:35 22 Q. My question -- let me just ask the

11:10:38 23 question. My question to you is: Now, looking

11:10:40 24 at Exhibit 3, do you recognize the document?

11:10:43 25 A. It's similar to the one in the

Ronald Britt

complaint, yes.

Q. Well, do you recognize it as being a document that you saw prior to today?

A. I can't be sure, ma'am.

Q. And this is a document that appears to be dated -- it's five pages -- sorry; four pages. It appears to be dated December 28th, 2006. And it's addressed to you, Ron Britt, at 91 East 3rd Street, New York, New York; correct?

A. If I may, ma'am, I can't help but notice that the last page of the document you just gave me is not the same as the page I signed. You'll notice that the one I signed begins "Period of 90 days consecutive," where the one you handed me begins, "Physically selected by company to continue," -- "Physician selected by company to continue."

Q. That may be true. So, that's why I'm asking you whether you recall having seen Exhibit 3 before today.

A. I said, I can't be sure; it's a long time ago. But I would point out that it's not the same as the one that I signed.

Q. But you don't really know what you

Ronald Britt

signed; is that correct?

MR. KOERNER: Objection.

A. Ma'am, I can tell you that anybody can look at this and see it's not the same as that.

Q. And my only question to you -- and it can be a yes or no answer -- is: Do you recall having seen Exhibit 3, which is dated December 8th, 2006, and addressed to you?

MR. ETTINGER: December 28th.

Q. I'm sorry. December 28th, 2006, and addressed to you. It's a four-page exhibit.

Do you recall having seen it before today?

A. I can't be sure.

Q. Do you recall whether the document that you signed that you refer to as an employment agreement, set forth your compensation?

MR. KOERNER: Objection; asked and answered.

You can answer again if you want.

THE WITNESS: Haven't I answered this?

1 *Ronald Britt*

11:13:01 2 MR. KOERNER: Yes.

11:13:03 3 Objection; asked and answered.

11:13:07 4 He's testified that he imagined it would,

11:13:10 5 but he can't recall. That's what he

11:13:11 6 testified. So...

11:13:13 7 Q. Do you recall whether the agreement
11:13:15 8 you actually signed set forth your compensation?

11:13:18 9 MR. KOERNER: Objection.

11:13:19 10 You can answer it.

11:13:19 11 A. No, I don't.

11:13:20 12 Q. Do you recall whether the agreement
11:13:22 13 that you actually signed stated that you were an
11:13:25 14 employee at will?

11:13:26 15 A. What does that mean?

11:13:28 16 Q. Do you recall whether the agreement
11:13:29 17 you actually signed stated that?

11:13:34 18 A. This is a long time ago.

11:13:41 19 MS. GOULD: Mark this, please.

11:13:41 20 A. And as I said, it was casual. Like,
11:13:43 21 here you go; sign this; you're the super.

22 *(Whereupon, three-page document*
23 *dated 1/4/07 was marked as Exhibit 4,*
24 *for id.)*

11:14:25 25 Q. Please take a look at Exhibit 4 for

Ronald Britt

identification. This is a three-page exhibit.

(Handing)

(witness peruses exhibit)

Do you recognize Exhibit 4?

(witness peruses exhibit)

A. I notice that it doesn't say anything about the apartment being part of the compensation.

Q. So, was it your recollection -- withdrawn.

Exhibit 4, just for the record, is a three-page exhibit, apparently on Wavecrest Management Team Limited stationery, dated January 4th, 2007, addressed to Ron Britt at 91 East 3rd Street, New York, New York.

And you're saying that you note -- first of all, do you recognize the exhibit?

A. Yeah, it looks vaguely familiar.

Q. And what does it look vaguely familiar to be?

A. A contract of employment.

Q. And you're noting -- withdrawn.

Looking at the last page of the exhibit, does it have your signature on it?

1 *Ronald Britt*

11:17:51 2 A. It does.

11:17:52 3 Q. But you're indicating to me that this
11:17:55 4 particular Exhibit 4 does not mention anything
11:17:58 5 about an apartment; is that correct?

11:18:01 6 A. Being part of my compensation. It
11:18:03 7 does say, I should leave it.

11:18:07 8 Q. And to the best of your recollection,
11:18:10 9 did the agreement that you actually signed
11:18:12 10 indicate that an apartment would be part of your
11:18:14 11 compensation?

11:18:14 12 A. I think so.

11:18:15 13 Q. And did the agreement -- withdrawn.

11:18:17 14 Looking at Exhibit 4, at the second
11:18:22 15 page of this document at the bottom of the page.

11:18:26 16 A. Mm-hmm.

11:18:27 17 Q. It says, "As full compensation for
11:18:30 18 your services to be rendered as an employee at
11:18:33 19 will, the company shall pay you a salary on a
11:18:40 20 biweekly basis of \$315 per week, which is \$630
11:18:43 21 for each biweekly period, to be paid on a period
11:18:45 22 of --" withdrawn.

11:18:46 23 Do you see that?

11:18:48 24 A. Yeah, I see that paragraph.

11:18:49 25 Q. All right. Do you recall whether

1 *Ronald Britt*

11:18:51 2 this is information that was set forth in the
11:18:55 3 agreement that you actually signed?

11:18:56 4 A. I can't be sure, ma'am. That's a
11:18:59 5 long time ago.

11:19:00 6 Q. What would make you sure?

11:19:02 7 A. Well --

11:19:03 8 MR. KOERNER: If anything.

11:19:05 9 A. -- this seems incomplete; because the
11:19:08 10 apartment certainly was part of the compensation
11:19:10 11 package, and I took possession on the day I
11:19:13 12 signed it.

11:19:13 13 Q. And looking at the second page of
11:19:15 14 this Exhibit 4 and the third page of the exhibit,
11:19:17 15 does it seem to you that there's a fourth page
11:19:20 16 that's missing from the exhibit?

11:19:29 17 *(Witness peruses exhibit)*

11:19:30 18 A. I don't know.

11:19:32 19 Q. You don't know.

11:19:34 20 But you do recall that an apartment
11:19:36 21 was mentioned in the agreement that you actually
11:19:37 22 signed; is that correct?

11:19:39 23 A. They gave me the keys the day I
11:19:42 24 signed this.

11:19:43 25 Q. And which apartment was that?

1 *Ronald Britt*

11:19:43 2 A. Apartment Number 12 at 91 East 3rd
11:19:47 3 Street.

11:19:47 4 Q. And what floor was it on?

11:19:49 5 A. Well, not counting the lobby, it
11:19:51 6 would be on the second floor.

11:19:53 7 Q. And there was some agreement as to
11:19:56 8 compensation; is that correct?

11:19:58 9 A. Yes.

11:19:59 10 Q. But you can't recall what that was?

11:20:01 11 A. It's the same as what they were
11:20:03 12 paying Brendan.

11:20:04 13 Q. And what was that?

11:20:05 14 A. Well, I believe that it was in the
11:20:08 15 neighborhood of 350 bucks, with 50 bucks for a
11:20:13 16 phone.

11:20:13 17 Q. Well, Exhibit 4 makes reference to
11:20:16 18 \$315; is that correct?

11:20:17 19 A. I can't be sure. But if you want me
11:20:19 20 to read --

21 Q. Looking at the second page --

11:20:20 22 A. -- what you handed me, yeah; I'll be
11:20:22 23 happy to read what you handed me.

24 *(Witness peruses exhibit)*

11:20:24 25 Yeah, 315.

1 *Ronald Britt*

11:20:25 2 Q. And what was your agreement with
11:20:28 3 Jay Yablonsky and/or Thermalld as to what you
11:20:32 4 would be paid?

11:20:34 5 A. The same as Brendan.

11:20:35 6 Q. And you don't know if that was 315?

11:20:38 7 A. I can't be sure, ma'am. That was a
11:20:40 8 long time ago.

11:20:40 9 Q. And that was to be full compensation
11:20:43 10 for your services, wasn't it?

11:20:45 11 A. And an apartment.

11:20:46 12 Q. And an apartment.

11:20:46 13 Now, was there anything else that was
11:20:48 14 provided in the employment agreement that you
11:20:50 15 actually signed? In addition to a weekly wage,
11:20:54 16 an apartment, was there anything else that was
11:20:56 17 provided as compensation to you in that
11:20:58 18 agreement?

11:20:58 19 A. As I recall, there was something
11:21:00 20 about overtime.

11:21:01 21 Q. You recall that there was something
11:21:03 22 about overtime in the agreement; is that correct?

11:21:05 23 A. That I'd be on call 24/7, 365. And
11:21:10 24 if I had to respond to things after hours, there
11:21:13 25 would be compensation.

1

Ronald Britt

11:21:16

2

Q. And when you say "overtime," was the

11:21:19

3

word "overtime" mentioned in any agreement that

11:21:22

4

you signed?

11:21:23

5

MR. KOERNER: If you recall.

11:21:24

6

A. As I said, ma'am, it's a while ago.

11:21:26

7

Q. And looking at Exhibit 4, Page 2 -- I

11:21:32

8

think that's in front of you. Would you look at

11:21:37

9

Paragraph 15 on that page -- paragraph numbered

11:21:41

10

15 on that page.

11:21:42

11

A. Mm-hmm.

11:21:43

12

Q. And this says, "In addition to your

11:21:45

13

regular work schedule, you are expected to be

11:21:47

14

available to respond to emergencies at the

11:21:49

15

building on a 24-hour basis, seven days a week."

11:21:53

16

A. And I was.

11:21:53

17

Q. "You will not be entitled to receive

11:21:55

18

any additional compensation for such emergency

11:21:59

19

services, but you may receive compensatory time

11:22:03

20

for any period devoted to such emergency services

11:22:06

21

longer than 30 minutes."

11:22:07

22

Do you see that?

11:22:08

23

A. Yeah, I do.

11:22:08

24

Q. Is that the language that you're

11:22:10

25

referring to as "overtime"?

1 *Ronald Britt*

11:22:12 2 MR. KOERNER: Objection. He is not --
11:22:13 3 he's not referring to having recalled any
11:22:16 4 language in this agreement. He's
11:22:17 5 referring to what his agreement was with
11:22:19 6 the defendants in this case.

11:22:21 7 Q. Do you recall the language set forth
11:22:23 8 in Paragraph 15 on Page 2 of Exhibit 4?

11:22:26 9 A. I can tell you, I never received any
11:22:28 10 additional compensation for those calls that came
11:22:31 11 in on a 24-hours basis. Not once.

11:22:37 12 MR. KOERNER: But the question is:
11:22:37 13 Do you recall seeing that language before?

11:22:41 14 THE WITNESS: It's been a long
11:22:43 15 time. I can't be sure.

11:22:46 16 MR. KOERNER: What a waste of time.

11:22:49 17 MS. GOULD: Really, Mr. Koerner?

11:22:50 18 MR. KOERNER: Really. We've
11:22:52 19 already testified he doesn't remember the
11:22:55 20 terms of the contract. You want to waste
21 your whole deposition doing this... He
22 doesn't remember --

11:22:55 23 MS. GOULD: I'll tell you, I'll
11:22:57 24 waste my deposition as I see fit.

25 MR. KOERNER: Okay. Fine. Well,

1 *Ronald Britt*

11:22:59 2 there's been conversation about how time
11:23:00 3 constraints are an issue here --

4 MS. GOULD: Yes.

5 MR. KOERNER: -- and you're
11:23:02 6 spending the whole time going over terms,
11:23:02 7 which he's already testified he doesn't
11:23:05 8 remember.

11:23:05 9 Continue.

11:23:06 10 MS. GOULD: Thank you.

11:23:08 11 Q. Do you recall ever seeing the word
11:23:10 12 "overtime" in any agreement that you signed with
11:23:13 13 Thermalld or Wavecrest?

11:23:14 14 A. I can't be sure, ma'am.

11:23:15 15 Q. Now, what is the role that you were
11:23:18 16 hired to fulfill?

11:23:19 17 A. To be the super of record.

11:23:22 18 Q. And what did that role entail?

11:23:24 19 A. Repair things as they became broke,
11:23:29 20 help the tenants, take care of the buildings, and
11:23:32 21 keep an eye on everything.

11:23:33 22 Q. And were there physical duties
11:23:35 23 involved in all of this?

11:23:36 24 A. Oh, yeah.

11:23:37 25 Q. And what were they?

1 *Ronald Britt*

11:23:40 2 A. Well, any time anything was broke,
11:23:42 3 I'd have to fix it.

11:23:43 4 Q. And what kinds of things did you have
11:23:45 5 to fix?

11:23:46 6 A. All matter of things, ma'am.

11:23:47 7 Q. Please describe a few of them.

11:23:50 8 A. Painting apartments, fixing holes in
11:23:53 9 walls, stopping leaks. You name it. Anything
11:24:01 10 that goes wrong with the building, I had to
11:24:04 11 either be there to fix it or be there to let a
11:24:07 12 contractor in to fix it.

11:24:08 13 Q. And you did both of those things -
11:24:10 14 you both fixed and you let contractors in to fix?

11:24:11 15 A. I did. And a lot of other things,
11:24:13 16 too.

11:24:13 17 Q. Did you have any involvement with
11:24:15 18 trash and trash removal?

11:24:16 19 A. I supervised the porters.

11:24:18 20 Q. And did you have any involvement with
11:24:23 21 water lines on the premises?

11:24:25 22 A. Occasionally they would burst, and I
11:24:28 23 would be there to shut them off.

11:24:31 24 Q. And was there a water tower on any
11:24:32 25 one of the buildings?

1 **Ronald Britt**

11:24:33 2 A. No, there was not.

11:24:34 3 Q. Was there a boiler in any one of the
11:24:37 4 buildings?

11:24:37 5 A. Yes, ma'am.

11:24:38 6 Q. And what were your responsibilities
11:24:40 7 with regard to the boiler?

11:24:41 8 A. To maintain them as I was instructed.

11:24:43 9 Q. And this was your responsibility in
11:24:44 10 how many buildings?

11:24:45 11 A. Three. But to be on call for a
12 fourth one in Chinatown.

11:24:53 13 Q. And those were the buildings listed
11:24:55 14 on the first page of Exhibit 4; is that correct?

11:24:57 15 *(Witness peruses exhibit)*

11:24:57 16 A. Correct.

11:24:58 17 Q. And were you responsible for being
11:25:01 18 sure that the elevators in the buildings were
11:25:04 19 working?

11:25:04 20 A. Only to report when they weren't, or
11:25:07 21 to get people out when they were trapped.

11:25:10 22 Q. And when you had to do that, what was
11:25:12 23 it that you did?

11:25:13 24 A. I got them out.

11:25:14 25 Q. Now, you indicated that you didn't

Ronald Britt

1 want to clean; is that correct?

11:25:15 2 A. Correct.

11:25:17 3 Q. Did you do something instead of
11:25:17 4 cleaning?
11:25:22 5

11:25:22 6 MR. KOERNER: Objection.

11:25:22 7 A. No; I ended up doing a lot of
11:25:25 8 cleaning, anyway.

11:25:25 9 Q. Was there someone that was hired to
11:25:28 10 do cleaning?

11:25:28 11 A. There were porters.

11:25:30 12 Q. And during the period 2010 through
11:25:35 13 April 30th, 2013, how many porters were employed
11:25:38 14 at 91 East 3rd Street?

11:25:41 15 A. Two that I recall.

11:25:43 16 Q. Who are they?

11:25:44 17 A. Richard Usera. And a fellow named
11:25:58 18 Zing, and I wouldn't care to try to spell his
11:26:01 19 last name.

11:26:02 20 Q. And at 415 East 9th Street, who were
11:26:05 21 the porters that were employed there?

11:26:07 22 A. Same fellows.

11:26:07 23 Q. Those two, Mr. Usera and Zing?

11:26:10 24 A. Yes.

11:26:10 25 Q. What about at 319 East 9th Street?

Ronald Britt

11:26:14 2 A. The same.

11:26:14 3 Q. And with regard to the building in
11:26:19 4 Chinatown, do you know whether porters were
5 employed there?

11:26:21 6 A. There was a fellow named Manuel, and
11:26:24 7 he was the super of that building. But if there
11:26:26 8 were things that happened, they called me,
11:26:28 9 because he was old.

11:26:29 10 Q. Now, going back to your agreement
11:26:34 11 with Wavecrest/Thermal, you indicated you had a
11:26:40 12 certain amount of compensation and you had an
11:26:43 13 apartment; is that correct?

14 A. *(Witness nods head).*

11:26:45 15 Q. Were free utilities also provided in
11:26:48 16 that agreement?

11:26:49 17 A. Yes, ma'am.

11:26:49 18 Q. And was phone reimbursement also
11:26:54 19 provided in that agreement?

11:26:55 20 A. There was \$50 for me to carry a cell
11:26:58 21 phone.

11:26:58 22 Q. \$50 per what period of time?

11:27:01 23 A. A month.

11:27:01 24 Q. Did that ever change?

11:27:03 25 A. No.

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Ronald Britt

Q. Was it ever \$50 a week?

A. I don't believe so.

Q. There was reference in Exhibit 4 to \$315 per week, on Page 2 of the exhibit.

Did you ever receive more than that amount of money a week from Wavecrest/Thermal?

MR. KOERNER: If you recall.

A. Well, for the jobs that I did on the side for them, yes.

Q. Well, putting aside the jobs that you did on the side, in terms of weekly base salary, did you ever receive more than \$315 a week?

A. I believe I got a raise at some point in time.

Q. And that was a raise to how much?

A. I don't know. I would have to look at my pay stubs.

Q. Do you have a recollection that the number that you were receiving per week was increased to \$350 a week?

A. Something like that sounds about right, yes.

Q. At 91 East 3rd Street, how many floors in the building were located above street

Ronald Britt

11:28:18 2 level?

11:28:18 3 A. There are six apartments per floor,
11:28:22 4 going up to 36 apartments, not counting the
11:28:25 5 lobby.

11:28:26 6 Q. And you were in Apartment 12; is that
11:28:28 7 correct?

11:28:28 8 A. Yes, ma'am.

11:28:29 9 Q. And what are the other apartments in
11:28:31 10 that line at 91 East 3rd Street?

11:28:35 11 A. That would be Apartment 6, 12, 18,
11:28:39 12 24, 30, and 36.

11:28:41 13 Q. And as you sit here today, do you
11:28:43 14 have any knowledge of what the base rent is for
11:28:45 15 the apartment that you lived in while employed at
11:28:54 16 91 East 3rd Street?

11:28:54 17 A. I could tell you that it varies.

11:28:57 18 Q. And it varies between what and what?

11:28:59 19 A. I'd have to refer to a copy of the
11:29:04 20 rent rolls that they sent me.

11:29:09 21 Q. who sent you rent rolls?

11:29:15 22 A. The management.

11:29:16 23 Q. And how frequently did that occur?

11:29:17 24 A. Once.

11:29:18 25 Q. And when was that?

1 *Ronald Britt*

11:29:20 2 A. I don't recall.

11:29:20 3 Q. On a percentage basis, commencing on
11:29:30 4 or about January 4th, 2007, what percentage of
11:29:34 5 your time did you spend at 91 East 3rd Street?

11:29:39 6 A. I'm sorry?

11:29:40 7 Q. Yes. On a percentage basis, what
11:29:43 8 percentage of your time did you spend at 91 East
11:29:47 9 3rd Street?

11:29:47 10 A. I would say --

11:29:48 11 MR. KOERNER: 24 hours a day or
11:29:50 12 during his workdays? What are you talking
11:29:52 13 about?

11:29:52 14 A. Most of my time.

11:29:52 15 Q. You spent most of your time at
11:29:55 16 91 East 3rd Street.

11:29:55 17 And how frequently did you go to the
11:29:57 18 other buildings?

11:29:58 19 A. Almost daily, I would say.

11:30:00 20 Q. And what part of your day was spent,
11:30:02 21 on a percentage basis, at 415 East 9th Street?

11:30:08 22 A. It would depend on what was happening
11:30:10 23 that day.

11:30:11 24 Q. It varied; is that correct?

11:30:12 25 A. All the time.

Ronald Britt

11:30:12 2 Q. And is that also true for 319 East
11:30:16 3 9th Street?

11:30:16 4 A. Yes, ma'am.

11:30:17 5 Q. Was there any requirement, either by
11:30:24 6 Mr. Yablonsky at Wavecrest or by Ms. Alderman,
11:30:29 7 that you be present at any particular premises
11:30:32 8 during any particular hours?

11:30:34 9 A. If there was an inspection, I was to
11:30:38 10 be there. If there was an eviction, I was to be
11:30:41 11 there. If there was a contractor, I was to be
11:30:43 12 there. And I was to respond to any complaints
11:30:46 13 that anyone had.

11:30:47 14 Q. Were you ever away from the buildings
11:30:49 15 at night?

11:30:49 16 A. For the most part, I'd say, no.

11:30:55 17 Q. Did you ever go out at night?

11:30:56 18 A. Only in the neighborhood.

11:30:58 19 Q. But you left the premises; is that
11:31:00 20 correct?

11:31:00 21 A. In the neighborhood; I'm near the
11:31:02 22 premises.

11:31:03 23 Q. You left the premises; is that
11:31:05 24 correct?

11:31:05 25 A. Well, if the premises extends from

Ronald Britt

Chinatown to 9th Street, then I would say,
rarely.

Q. So, are you saying you stayed in the
buildings every night during the period of time
that you were employed? Is that what your
testimony is?

A. I couldn't say. No.

Q. Well, did you ever go to Edge bar at
night?

A. That's in the building, yes.

MR. KOERNER: That's part of the
premises.

Q. And did you ever go to any other
establishment in the evenings?

A. Of course.

Q. And I mean, establishment, other than
the buildings owned my Thermal.

A. Of course.

Q. And did you ever go away on weekends?

A. Rarely.

Q. Do you like to fish?

A. I do.

Q. And did you ever go fishing on
weekends?

1 *Ronald Britt*

11:31:47 2 A. Oh, very rarely.

11:31:50 3 Q. Did you ever go fishing on weekends?

4 MR. KOERNER: He just answered,
5 yes, very rarely.

6 MS. GOULD: He didn't say, yes. He
11:31:52 7 said, "Very rarely."

11:31:52 8 A. Very rarely. Like, on vacation or
11:31:55 9 once with Ms. Alderman.

11:31:57 10 Q. Oh, you went fishing once with
11:31:59 11 Ms. Alderman.

11:32:00 12 When was that?

11:32:01 13 A. I don't recall, but it was when we
11:32:03 14 went to Pennsylvania.

11:32:04 15 Q. Did you maintain any sort of time
11:32:10 16 records during the period of time that you were
11:32:14 17 employed by ThermalD/Wavecrest?

11:32:20 18 A. To be available 24/7 is --

11:32:22 19 Q. Did you, personally, maintain any
11:32:24 20 time records? Time sheets, for example.

11:32:27 21 A. No.

11:32:27 22 Q. Did you record your work times?

11:32:31 23 MR. KOERNER: He just answered,

11:32:32 24 "No."

11:32:34 25 MR. ETTINGER: I think he said,

Ronald Britt

other than time records.

Any documentation of any kind
regarding when you worked --

THE WITNESS: Phone records.

MR. ETTENGER: -- what you did.

THE WITNESS: Phone records.

Q. And what kinds of phone records do
you have?

A. Bills.

Q. And what do those bills show?

A. Every call I made and received.

Q. And for what period of time do you
have bills?

A. Well, I don't actually have them.
I'd have to look it up.

Q. How would you look it up?

A. I'd imagine that the N.S.A. would
have copies.

Q. And other than the N.S.A. --

MR. KOERNER: Your phone company,
perhaps.

THE WITNESS: Through the phone
company, yes.

Q. And who was your phone company?

1 *Ronald Britt*

11:33:21 2 A. Well, I had two different ones.

11:33:23 3 There was Verizon and MetroPCS.

11:33:26 4 Q. And Metro...?

11:33:27 5 A. MetroPCS.

11:33:29 6 Q. For what period of time did you have
11:33:31 7 Verizon?

11:33:32 8 A. A few years.

11:33:34 9 Q. When did you cease using Verizon as
11:33:37 10 your carrier?

11:33:38 11 A. I can't be sure.

11:33:40 12 Q. Approximately when?

11:33:41 13 A. I wouldn't care to guess.

11:33:44 14 Q. And what was your phone number when
11:33:46 15 you used Verizon?

11:33:47 16 A. I don't know; it's been a while.

11:33:54 17 Q. Did you change phone numbers when you
11:33:58 18 switched to MetroPCS?

11:34:00 19 A. I did.

11:34:01 20 Q. And what was your phone number for
21 MetroPCS?

11:34:01 22 A. It still is, (917) 284-5678.

11:34:07 23 Q. Did anyone ever ask you to maintain
11:34:16 24 time records while you were working for Thermal/ Wavecrest?
11:34:19 25

Ronald Britt

11:34:19 2 A. No, ma'am.

11:34:23 3 Q. Did you understand when you became
11:34:39 4 employed by ThermalD/Wavecrest, that you could be
11:34:43 5 terminated for any reason or no reason?

11:34:46 6 A. No, not really. I would think they'd
11:34:53 7 have a reason. But when they fired me, they
11:34:56 8 didn't give one.

11:34:57 9 Q. Do you have anything in writing that
11:34:59 10 tells you that they need to give you --
11:34:59 11 withdrawn.

11:34:59 12 Do you have anything in writing from
11:35:02 13 ThermalD or Wavecrest that tells you that they
11:35:05 14 can only fire you when they give you a reason?

11:35:08 15 A. I -- no, ma'am, not that I'm aware
11:35:11 16 of.

11:35:12 17 Q. Do you understand what an at-will
11:35:16 18 employee means?

11:35:17 19 A. No, I don't.

11:35:17 20 Q. Looking at Exhibit 4, which should
11:35:22 21 still be in front of you. The second page of the
11:35:28 22 exhibit, at the bottom of the page --

11:35:29 23 A. Yes.

11:35:30 24 Q. -- it says, "As full compensation for
11:35:32 25 your services to be rendered as an employee at

1 *Ronald Britt*

11:35:35 2 will."

11:35:37 3 Do you understand what that means?

11:35:38 4 MR. KOERNER: Objection. He just
11:35:40 5 said, "No."

11:35:41 6 A. I did say, "No."

11:35:46 7 MR. KOERNER: Just one second.

8 *(Pause in the record)*

9 MS. GOULD: Can you mark this.

10 *(Whereupon, 1/26/12, 2-page*
11:36:04 11 *document was marked as Exhibit 5, for id.)*

11:36:04 12 MR. ETTINGER: Do you want to take
11:36:06 13 a five-minute break?

14 MS. GOULD: Yes. Sure.

11:44:13 15 *(Recess held from 11:36 to 11:45 a.m.)*

16 MS. GOULD: Back on the record.

17 CONTINUED EXAMINATION BY MS. GOULD:

11:45:08 18 Q. Mr. Britt, I'm showing you what we've
11:45:10 19 marked for identification as Exhibit 5.

11:45:16 20 *(Handing)*

11:45:17 21 *(Witness peruses exhibit)*

11:45:38 22 A. Yes.

11:45:38 23 Q. This is a two-page exhibit. The
11:45:40 24 first page is a page that says, "To: All
11:45:45 25 employees. From: Tara Clyburn."

Ronald Britt

who is Tara Clyburn?

A. A pay person at Wavecrest, maybe.

Q. And it's dated January 26th, 2012.

And it says, *(Reading:)* Regarding your employment, attached please find notice and acknowledgement of pay rate and payday. Please review, sign, and return to me as soon as possible, but no later than February 3rd, 2012.

If you have any questions, please feel free to email me at - and she gives her email address - or call at extension 3760.

And then, there's a second page.

Do you see that?

A. Yes, ma'am.

Q. Do you recall having seen either one of these documents before today?

A. I can't be sure, no.

Q. You can't be sure one way or the other; is that correct?

A. I can't be sure that I've seen this document before, no.

Q. Okay. And the second page is entitled "Notice and acknowledgement of pay rate and payday," and then it has the translation in

1 *Ronald Britt*

11:46:40 2 Spanish; is that correct?

11:46:40 3 A. That appears to be correct.

11:46:42 4 Q. And is it your testimony that you
11:46:44 5 can't recall whether you did or did not see this
11:46:47 6 document before today; is that right?

11:46:48 7 A. I don't know that I did.

11:46:49 8 Q. And you don't know that you don't; is
11:46:52 9 that also correct?

11:46:52 10 A. Right.

11:46:53 11 Q. Now, is it accurate, Mr. Britt, that
11:47:03 12 in this lawsuit, this federal lawsuit, you're
11:47:08 13 making a claim for overtime wages and for so-
11:47:11 14 called spread-of-hours pay?

11:47:13 15 A. Whatever the Department of Labor said
11:47:17 16 in that page of the claim, is what they say.

11:47:21 17 Q. No; I'm asking you what your claim
11:47:25 18 is.

11:47:25 19 A. Well, I'm with the Department of
11:47:27 20 Labor.

11:47:27 21 Q. So, is it your testimony that the
11:47:30 22 claim that you're making in your federal lawsuit
11:47:32 23 is the same claim that you made with the New York
11:47:38 24 State Department of Labor?

11:47:39 25 MR. KOERNER: It's one of the

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claims.

Q. Well, I'm asking about the overtime claim right now.

Is it your testimony that the overtime claim that you're making in this lawsuit is the same overtime claim that you made in the New York State Department of Labor?

MR. KOERNER: Objection to the extent it calls for legal conclusions. I will allow him to --

A. Yeah; there's lot of legalese there.

Q. Well, what is it you're claiming by way of overtime in this federal lawsuit?

A. When I went to the Department of Labor, they said that Thermalld owes me 38,900 and change.

Q. And is that the claim that you're making in this federal lawsuit?

A. It's one of the claims.

Q. And was that an overtime claim that you made to the New York State Department of Labor?

A. Ma'am, I'm not clear exactly why they think that, but the supervisor says that.

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Q. No. I'm asking you what your claim is in this lawsuit with regard to overtime.

A. Well, my claim is that the Department of Labor says that they owe me back pay.

Q. How much overtime are you claiming in this lawsuit?

A. The number they gave me was \$38,970-some, I think.

Q. And is that the overtime claim, under whatever statute, that you're making in this lawsuit?

MR. KOERNER: If you know. If you know.

A. I don't know.

MR. KOERNER: Again, he said he -- he said it calls for knowledge of legal -- a lot of legal --

A. This is a lot of legal stuff that I don't fully understand.

Q. No, no.

MR. KOERNER: The claim is he wasn't paid for his overtime, and he wasn't paid according to the spread of hours.

1 *Ronald Britt*

11:49:13 2 MS. GOULD: Counselor, I'm entitled
11:49:14 3 to know the amount of the claim that your
11:49:17 4 client is making in this lawsuit.

5 MR. KOERNER: Right. He's saying
11:49:18 6 it's \$38,000 and however many cents.

11:49:23 7 Q. Is that what you're saying?

11:49:25 8 A. Yes, ma'am. It's what they told me.

11:49:28 9 MR. KOERNER: Well, an amount to be
11:49:30 10 determined at trial, but at least that
11:49:30 11 much.

11:49:30 12 A. That's what they told me.

11:49:32 13 Q. No, no, no.

14 A. And they said that --

15 Q. No, no, no.

11:49:33 16 MS. GOULD: Let me just stop and go
11:49:34 17 on the record right now, okay? You can
11:49:36 18 say whatever you want in the complaint and
19 then that is to be determined at trial.

11:49:39 20 Your Rule 26 disclosures were
11:49:42 21 incomplete in that you did not give a
11:49:45 22 calculation of damages.

23 I am entitled to know and to
11:49:46 24 explore what the claim for damages is in
11:49:49 25 this case.

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11:49:49 2 Q. And the first question was: What are
11:49:51 3 the over -- what are the claim for overtime
11:49:53 4 damages? And if you could, please tell me what
11:49:55 5 they are.

11:49:55 6 Are you saying it's the same as what
11:49:57 7 the Department of Labor told you?

11:49:59 8 A. It may be more, ma'am, to be honest.

9 Q. Well, how much more?

11:50:02 10 A. Oh, I don't know. They said that it
11:50:04 11 didn't count as time and a half, and it didn't
11:50:07 12 count as penalties, is what they told me.

11:50:09 13 Q. Sir, are you testifying that you
11:50:11 14 don't know how much you are claiming by way of
11:50:14 15 overtime wages in this lawsuit?

11:50:16 16 A. I am saying that according to the
11:50:18 17 Department of Labor, it's at least 38,900 and
11:50:23 18 change.

11:50:23 19 Q. Other than that number, 38,900 and
11:50:27 20 change, are you making any other claim for
11:50:29 21 overtime in this lawsuit?

11:50:30 22 A. I guess not.

11:50:33 23 Q. Did you discuss spread-of-hours pay
11:50:40 24 when you went to the Department of Labor?

11:50:42 25 A. I gave them my pay stubs. They

1 **Ronald Britt**

11:50:45 2 reviewed them. Then, they went to their
11:50:48 3 supervisor, and then they went to their top
11:50:52 4 supervisor, and they came back with that number.

11:50:55 5 Q. With which number?

11:50:57 6 A. 38,000 and change.

7 MS. GOULD: Mark this, please.

8 *(Whereupon, four-page letter from*
9 *the New York State Department of Labor to*
10 *Ronald Britt, dated 5/10/13 was marked as*
11:51:55 11 *Exhibit 6, for id.)*

11:51:55 12 Q. Taking a look at Exhibit 6 --

13 *(Handing)*

14 *(Off-the-record discussion between*
15 *Mr. Koerner and the witness)*

11:52:04 16 MS. GOULD: Note that counsel is
11:52:07 17 conferring with his witness.

11:52:08 18 MR. KOERNER: Absolutely, yes; I'm
11:52:10 19 conferring with my witness.

11:52:25 20 Q. Sir, would you take a look at

11:52:29 21 Exhibit 6. It's a four-page exhibit.

11:52:32 22 A. That's what you just handed me here?

11:52:35 23 Q. Yes.

11:52:36 24 A. Oh, you want me to look at this one?

11:52:39 25 Q. Yes. Look at the marked exhibit.

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(Witness peruses exhibit)

11:52:46 2 A. Yes.

11:52:52 4 Q. Do you recognize Exhibit 6?

11:52:54 5 A. Yes. It looks like the letter they
11:53:07 6 sent me.

11:53:07 7 Q. That's the first page of the exhibit
11:53:08 8 that you're referring to; is that correct?

11:53:10 9 A. Yes, ma'am.

11:53:11 10 Q. And this is a letter that appears to
11:53:13 11 be dated May 10th, 2013, addressed to a Ronald
11:53:17 12 Britt at 91 East 3rd Street, Apartment 12,
11:53:19 13 New York, New York, and it's on the letterhead
11:53:22 14 of the New York State Department of Labor; is
11:53:25 15 that correct?

11:53:25 16 A. Yes, ma'am.

11:53:26 17 Q. And do you recall having received
11:53:27 18 this letter, the first page of Exhibit 6, before
11:53:30 19 today?

11:53:30 20 A. I think so, yes.

11:53:31 21 Q. And would you look at the second page
11:53:34 22 of the exhibit.

11:53:36 23 A. Yes, ma'am.

11:53:37 24 Q. And the top of that page says,
11:53:43 25 "Please answer all questions on both sides.

1 **Ronald Britt**

11:53:46 2 Please print clearly."

11:53:47 3 Do you see that?

11:53:50 4 *(Witness peruses exhibit)*

11:53:50 5 A. Yes.

11:53:51 6 Q. Do you see your signature on this
11:53:54 7 page, Mr. Britt?

11:53:56 8 A. I do.

11:53:58 9 Q. Okay. And do you recall having
11:53:58 10 filled out this page when you went to the
11:54:01 11 Department of Labor to make a complaint?

11:54:02 12 A. They filled it out for me, yes.

11:54:05 13 Q. Well, what was the process by which
11:54:08 14 they filled it out for you?

11:54:10 15 A. They asked me questions, and I
11:54:12 16 answered them.

17 Q. And then, they took down --

11:54:12 18 A. They looked at my pay stubs, and they
11:54:15 19 disappeared. And then, they came back, and they
11:54:17 20 disappeared. And then, they came back.

11:54:19 21 Q. And who is the "they" that
11:54:22 22 disappeared?

11:54:22 23 A. The people that were working there.

11:54:24 24 Q. So, some representative or more than
11:54:26 25 one representative of the Department of Labor

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asked you questions; is that correct?

A. That's right.

Q. And you answered those questions; is that correct?

A. I did.

Q. And they filled in this form for you; is that correct?

A. Yes, ma'am.

Q. And then, you signed it; is that correct?

A. Yes, ma'am.

Q. And it appears to be dated May 1 of 2013; is that right?

Bottom lower -- lower right-hand side of the page.

(Witness peruses exhibit)

A. Yes.

Q. And above your signature it says, "Any false statements knowingly made are punishable as a Class A misdemeanor, Section 210.45 of the New York State Penal Law.

I affirm that the above statements are true."

Do you see that?

1 *Ronald Britt*

11:55:07 2 A. Yes, ma'am.

11:55:08 3 Q. And then, you signed the document;
11:55:10 4 is that right?

11:55:10 5 A. I did.

11:55:11 6 Q. Okay. Now, looking at Question 23 on
11:55:16 7 the second page of Exhibit 6.

11:55:21 8 A. Yes.

11:55:21 9 Q. It says, "Wages claimed for period:"
11:55:29 10 And then it says, "First date to last date."

11:55:32 11 Do you see that?

11:55:33 12 A. Yes, I see that.

11:55:34 13 Q. And then, there are dates there; is
11:55:37 14 that correct?

11:55:37 15 A. It's tough to make out on my copy.

11:55:43 16 Q. Does it say 8/27/11 to 5/3/13?

11:55:48 17 A. I think so. That 13 may be a 15, but
11:55:56 18 that wouldn't make any sense.

11:55:58 19 Q. Correct. That would make no sense.

11:56:01 20 So, are the dates there 8/27/11 to
11:56:05 21 5/3/13?

11:56:06 22 A. I can't -- yeah, if you say so.

11:56:08 23 Q. No. I'm not -- I'm asking you if you
11:56:10 24 can read them.

25 MR. KOERNER: If you can tell. If

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11:56:11 2 you can't --

11:56:11 3 A. I can't read them.

11:56:13 4 Q. well, do you know for what period you
11:56:17 5 are claiming overtime both with the New York
11:56:21 6 State Department of Labor and in this action?

11:56:23 7 A. As I said, they filled it out based
11:56:26 8 on my pay stubs.

11:56:28 9 Q. And how was it determined that the
11:56:30 10 period of the claim would be August 27th of 2011
11:56:33 11 to 5/3 of '13?

11:56:35 12 A. I don't know, ma'am.

11:56:38 13 Q. But you signed the document; is that
11:56:41 14 correct?

11:56:41 15 A. I did.

11:56:41 16 Q. So, that's the claim that you made
11:56:43 17 with the Department of Labor; is that correct?

11:56:46 18 A. It's the form they filled out based
11:56:47 19 on my pay stubs.

11:56:49 20 Q. Did you sign this under the penalty
11:56:51 21 of perjury, sir?

11:56:53 22 A. I did.

11:56:53 23 Q. And that is the claim that you are
11:56:56 24 making in this federal action for overtime; is
11:56:59 25 that correct?

1 *Ronald Britt*

11:56:59 2 A. As I said, ma'am, they filled it out,
3 and I signed it.

11:57:01 4 Q. Is that the claim that you're making,
11:57:02 5 Mr. Britt? Yes or no.

11:57:03 6 A. Yes.

11:57:04 7 Q. And looking at Question 29, it says,
11:57:18 8 "Did employer refuse to pay for these wages?"
11:57:22 9 And there's a notation "N/A."

11:57:25 10 Do you see that?

11:57:26 11 A. Yes.

11:57:26 12 Q. Do you have an understanding of what
11:57:31 13 that means?

11:57:31 14 A. Nonap -- aclable -- aclable --

15 MR. KOERNER: Nonapplicable.

16 Q. Nonapplicable?

11:57:37 17 A. Yes.

11:57:37 18 Q. And that's based upon your answers;
11:57:40 19 is that correct?

11:57:40 20 A. I assume so.

11:57:42 21 Q. Looking at Question 26, it says, "Did
11:57:47 22 you request these wages?"

11:57:49 23 Do you see that?

11:57:49 24 A. Yes.

11:57:50 25 Q. And the box is checked off, "No."

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Do you see that?

A. Yes.

Q. And that check-off was made by you?

A. No, ma'am. They filled it out.

Q. But you signed it as being true; is that correct?

A. That's right.

Q. So, you did not request the wages that you're now claiming; is that correct?

A. As I said, I've never been paid any overtime.

Q. I'm not asking you that question.

MR. KOERNER: In fact, actually -- one moment.

Q. Did you request those wages?

MR. KOERNER: One moment.

MS. GOULD: No, no, no. There's a pending question.

MR. ETTINGER: There's a pending question.

MR. KOERNER: Okay. Then, I'll say it for the record: Did you request the wages in that amount? I think that's what you're referring to.

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11:58:30 2 MS. GOULD: No. That is -- you
11:58:31 3 know, sir, you are coaching the witness.

4 MR. KOERNER: No, I'm not.

11:58:34 5 MS. GOULD: You are giving a
11:58:35 6 speaking objection, and that is not
11:58:37 7 permitted. So, kindly, cease and desist
8 from doing that.

11:58:40 9 A. Well, I can -- I can tell you that
11:58:40 10 when Jay brought me my last paycheck, and I
11:58:45 11 surrendered what keys there were, and he gave me
11:58:47 12 that sterling letter of recommendation, I told
11:58:49 13 him in that time, that the Department of Labor
11:58:52 14 owed me this -- said that they owed me this
11:58:56 15 money, and he might want to get out ahead of it.

16 Q. Prior to the time --

11:59:00 17 A. So, I hope that answers your
11:59:01 18 question.

11:59:01 19 Q. That actually doesn't answer my
20 question.

11:59:02 21 Prior to the time that you were
11:59:05 22 terminated from your position at 91 East 3rd and
11:59:11 23 with regard to the other Thermal buildings on
11:59:14 24 April 30th, 2013, did you request overtime wages?

11:59:19 25 A. No.

1 *Ronald Britt*

11:59:36 2 MS. GOULD: Just give me one
11:59:37 3 second.

11:59:39 4 MR. KOERNER: There's no pending
11:59:40 5 question?

11:59:41 6 MS. GOULD: There's no pending
11:59:43 7 question.

11:59:43 8 MR. KOERNER: Okay. Come on
11:59:44 9 outside.

10 *(Recess held from 11:59 to 12:00 p.m.)*

11 MS. GOULD: Can I have the last two
12 questions and answers read back.

13 *(Record read)*

12:00:56 14 THE WITNESS: When I did discuss
12:00:58 15 it, it was scoffed at. So, no, I never
12:01:01 16 answered, because I like keeping my job.

12:01:03 17 MS. GOULD: No, no, no. The
12:01:04 18 question wasn't that.

19 CONTINUED EXAMINATION BY MS. GOULD:

12:01:05 20 Q. The question was: Prior to the time
12:01:07 21 you were terminated on April 30th, 2013, did you
12:01:13 22 request overtime wages? And.

12:01:14 23 I thought you answered, no.

12:01:16 24 A. There were a couple occasions when I
12:01:20 25 discussed it with Jay. And he said, take

Ronald Britt

additional time off, might be an option.

Q. And when were those occasions that you discussed it with Jay?

A. It wasn't very many. Because each time it was really clear, don't ask.

Q. So, looking at the form that was filled out under -- that you signed under penalty of perjury with the Department of Labor at -- Question 26 when it says, "Did you request these wages?", and the box, "No" is checked off, and you signed that under penalty of perjury, are you saying that you didn't tell the truth?

MR. KOERNER: Objection.

No, he's not.

MS. GOULD: Sir, you know, I don't want to get into a pissing match with you, but we will call the judge if you keep this up.

MR. KOERNER: Go ahead; call the judge.

MS. GOULD: Okay. Cut it out.

MR. KOERNER: You're asking people, did he lie?

Of course not. You didn't

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calculate his damages. That's what he's...

MS. GOULD: You are engaging in speaking objections, and you need to cut it out.

A. Ma'am, as I said --

MR. KOERNER: You need to stop misrepresenting his testimony.

MS. GOULD: The answer -- the answer --

MR. KOERNER: You need to stop misrepresenting his testimony.

MS. GOULD: The record speaks for itself.

MR. KOERNER: Exactly.

Q. And did you ever ask -- you said that Jay scoffed at you when you asked for some sort of overtime; is that correct?

A. That's right.

Q. And you can't recall how many times you asked him for that; is that correct?

A. Only a couple of times.

Q. And did you ever ask for those wages in writing?